

COMMENTS

The enclosed is responsive to the Examiner's Office Action mailed on March 15, 2004. At the time the Examiner mailed the Office Action claims 1-103 were pending. By way of the present response the Applicant has amended claims 1, 16, 38, 60, 61, 82, 102, and 103. No claims have been canceled or added. As such, claims 1-103 remain pending. The Applicant respectfully requests reconsideration of the present application and the allowance of all claims.

The Examiner objected to Claim 61 because of the informality of the machine readable claim referencing claim 59, a method claim. In response, the Applicant has filed herewith proposed changes to Claim 61 in which the informality cited by the Examiner has been addressed by correcting the reference to refer to Claim 60, an independent machine readable claim. No new matter is being entered as this amendment is supported by the written specification as filed. The Applicant respectfully submits that by way of these changes the objection to the claim should be removed.

The Examiner objected to Claims 102 and 103 as being substantial duplicates of claims 80 and 81 respectively. In response, the Applicant has filed herewith proposed changes to Claims 102 and 103 in which the duplication cited by the Examiner has been addressed by correcting the references to refer to Claim 82. No new matter is being entered as this amendment is supported by the written specification as filed. The Applicant respectfully submits that by way of these changes the objection to the claim should be removed.

The Examiner rejected Claim 1 under 35 USC 102(e) as being disclosed by U.S. Patent No. 6,594,699 (hereinafter "Sahai"). Claim 1 has been amended to be more precise. Claim 1 recites (emphasis added):

1. A method, comprising:

recurring adjustment of an ongoing data flow between a pair of nodes communicatively coupled by a network, said recurring adjustment performed by way of alterations made to characteristics of said flow, such alterations being scheduled and determined in response to ongoing observations of networking performance statistics related to said flow's previous behavior.

The Applicant respectfully submits that Sahai fails at least to disclose the emphasized language. Specifically, the methodology of Sahai is concerned with the selection of flow characteristics prior to the commencement of the flow (Fig 3.), such characteristics being concerned entirely with the capabilities of the Client CPU and the preferences of the user (Col 2, Lines 60-64).

By contrast, the method of Claim 1 teaches the adjustment of the characteristics of a flow of data while the flow is ongoing. Claim 1 further recites that such recurring adjustments are to be scheduled and determined based upon observations of the flow's previous behavior.

The Examiner's attention is directed at least to Section 3.0 of the Applicant's specification in order to gain insight into support that exists in the present application for the above claim language.

The Applicant respectfully submits that independent Claim 1 and all of its dependent claims should therefore be allowed.

The Examiner rejected independent Claim 16 under 35 USC 102(a) as being disclosed by U.S. Patent No. 5,953,506 (hereinafter "Kalra"). Independent Claim 16, as previously presented, recites (emphasis added):

16. A method, comprising:

- a) updating statistics that characterize an existing transaction over a network between a client and a server so that said statistics reflect an arrival event, said transaction comprising a series of messages sent to said client from said server that each contain their own portion of data that is desired by said client, wherein, said arrival event is the arrival of one of said messages at said client, said statistics being maintained by said client; and
- b) inquiring at said client whether increasing the informational flow of said transaction is appropriate in light of said arrival event.

The Applicant respectfully submits that Kalra fails at least to disclose the above emphasized claim language. Specifically, Kalra's method does not disclose the updating of network statistics nor the adjustment of transaction characteristics while said transaction is progressing on a message by message basis. Instead, Kalra discloses (in figures 15A and 15C; col. 18 lines 1-4; and col. 18 lines 45-52) only the updating of client profile information occurring between the completion of one group of messages and the commencement of another and then only in response to an explicit message received by the server from the client (col. 18, lines 45-46).

By contrast, the method of Claim 16 recites the updating of network statistics and the inquiring as to adjustment occurring in the event of arrival of each and every network message at the client, and further teaches that such statistics are maintained at the client, rather than needing to be communicated to the server.

The Examiner's attention is directed at least to Section 3.0 of the Applicant's specification in order to gain insight into support that exists in the present application for the above claim language.

The Applicant respectfully submits that independent Claim 16 and all of its dependent claims should therefore be allowed.

The examiner's attention is also drawn to each of the remaining independent claims (i.e. claims 38, 60, and 82). Note that each of the remaining claims references the updating of network statistics and the performance or inquiring as to action in response to the event of individual network messages arriving. In light of the above commentary, therefore, the Applicant respectfully submits that each of the independent claims in the present application are patentable over the Kalra reference. Moreover, because all independent claims are allowable, all dependent claims are likewise allowable over the Kalra reference.

Therefore all remaining claims are allowable over the cited references; and the Applicant respectfully requests the allowance of the same.

If there are any additional charges, please charge Deposit Account No. 02-2666. If a telephone interview would in any way expedite the prosecution of this application, the Examiner is invited to contact Thomas Webster at (408) 720-8300.

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Respectfully submitted,
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